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Item 3 of the provisional agenda*

INTERNATIONAL COOPERATION AND PRACTICAL TECHNICAL ASSISTANCE FOR STRENGTHENING THE RULE OF LAW: PROMOTING THE UNITED NATIONS CRIME PREVENTION AND CRIMINAL JUSTICE PROGRAMME

Note verbale dated 30 November 1994 from the Permanent Mission of Finland to the United Nations (Vienna) addressed to the Director-General of the United Nations Office at Vienna

The Permanent Mission of Finland presents its compliments to the Director-General of the United Nations Office at Vienna and has the honour to herewith submit the text of a draft resolution entitled "International cooperation and practical assistance for strengthening the rule of law: development of United Nations model agreements" for the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders.

The Permanent Mission of Finland avails itself of this opportunity to renew to the Director-General of the United Nations Office at Vienna the assurances of its highest consideration.

*A/CONF.169/1.

DRAFT RESOLUTION

International cooperation and practical assistance for strengthening the rule of law: development of United Nations model agreements

The Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Recalling that the General Assembly, in the statement of principles and programme of action of the United Nations crime prevention and criminal justice programme, annexed to its resolution 46/152 of 18 December 1991, established among the goals of the programme, *inter alia*, the strengthening of regional and international cooperation in criminal justice, more efficient and effective administration of justice, with due respect for human rights, and the promotion of the highest standards of fairness, humanity, justice and professional conduct,

Calling attention to the discussions at the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders on international cooperation and practical technical assistance for strengthening the rule of law, and in particular the discussions in the workshop on extradition and international cooperation, on specific problems in the practical implementation of extradition treaties and related forms of international cooperation and on methods of overcoming those problems, as well as on how extradition and other international cooperation should function, on general impediments to extradition and on how to balance extradition obligations against reasonable grounds for denial,

Noting that the United Nations model agreements on international cooperation in criminal matters have made a significant contribution to the development of international cooperation,

Noting also the important contribution of intergovernmental and non-governmental organizations to the promotion of bilateral and multilateral agreements on such international cooperation, including the recommendations adopted by the International Law Association at its sixty-sixth conference, held at Buenos Aires, from 14 to 20 August 1994, on extradition and human rights, and by the International Association of Penal Law at its fifteenth congress, held at Rio de Janeiro, Brazil, from 4 to 10 September 1994, on the regionalization of international criminal law and the protection of human rights in international cooperation in criminal proceedings,

1. *Urges* the Commission on Crime Prevention and Criminal Justice to consider, subject to the availability of extrabudgetary funds, the convening of a meeting of an expert group to examine practical recommendations for the further development and promotion of the United Nations model agreements on international cooperation in criminal matters as well as for the development of model legislation on extradition and related forms of international cooperation in criminal matters;

2. *Recommends* that the expert group should consider ways and means of increasing the efficiency of extradition and related forms of international cooperation in criminal matters, having due regard to protection of human rights, including such issues as:

(a) The possible abolition of the rule of non-inquiry into the fairness and legitimacy of procedures conducted in other States;

(b) The circumstances that are most likely to preclude or otherwise affect extradition, taking into consideration in the requesting State the possible use of the death penalty, torture or degrading treatment, the possible absence of fair trial standards and the degree of risk of violation of human rights;

(c) The legal aspects of conditional extradition;

(d) The possible abolition and modification of traditional obstacles to extradition in order to increase the effectiveness of extradition procedures;

3. *Also recommends* that the expert group should consider, in the light of the discussion of the workshop on the topic "Extradition and international cooperation: exchange of international experiences and implementation of relevant principles in national legislation", organized within the framework of the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, ways and means of further developing and promoting the United Nations model agreements, as well as the development of model legislation on extradition and related forms of international cooperation in criminal matters, having due regard to protection of human rights, including such measures as:

(a) The wider utilization of the United Nations model agreements;

(b) The provision of technical assistance in the development of bilateral agreements based on those model agreements;

(c) The drafting of alternative or complementary articles for existing model agreements and the drafting of articles for possible model multilateral treaties, as well as for model legislation;

4. *Recommends* that a report on the implementation of the present resolution should be submitted to the Commission on Crime Prevention and Criminal Justice at its fifth session.